

argument, the Examiner concluded that a film that is made permanently transparent, such as the masking film of Kobayashi, could potentially be not permanently transparent and return to the non-transparent state. Based on this logic, the Examiner found that Kobayashi's device includes this feature of claim 1. In the subsequent amendment, which is now entered, applicant pointed out that *Hutchison* is not on point and thus the feature of claim 1 is positively recited. In other words, the thin film of the near field light generating device of claim 1 transmits light when it is irradiated with light and blocks light when it is not irradiated. It does not merely recite an ability of a film that may result under an appropriate device design, but requires the film to so perform.

In the Advisory Action, the Examiner did not properly respond to this argument. Even though applicant has properly refuted the Examiner's reliance on *Hutchison* and the expression "adapted to" has been amended to "configured to", the Examiner still relies on the same contention that the feature of claim 1 is not a positive limitation without disputing applicant's argument. Applicant respectfully submits that the Examiner must provide a reasoned legal basis for his contention. Because the Examiner has failed to provide such reasoning, the feature of claim 1 is a positive limitation and thus distinguishes the invention of claim 1 over Kobayashi's device.

In light of the above, a Notice of Allowance is solicited.

Attached hereto is a marked-up version of the changes made to the claims by this amendment, captioned "**Version with markings to show changes made**".

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge

the cost of such petitions and/or other fees due in connection with the filing of this document to

Deposit Account No. 03-1952, referencing Docket No. 325772017700.

Respectfully submitted,

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